

REMARKS

This amendment is in response to the Office Action of March 16, 2004, in which claims 10-26 and 29-31 were rejected under 35. U.S.C. Section 102(a) as being anticipated by Matsui et al., U.S. Patent No. 6,352,503 (hereinafter known as the "Matsui '503 patent"). The currently pending claims include claims 10-26 and 29-31 of which claim 10 is independent. The remaining dependent claims depend either directly or indirectly from independent claim 10. Claims 1-9 and 27-28 were previously examined in application Serial No. 09/315,601, filed May 20, 1999, now issued U.S. Patent No. 6,488,689. The current application is a divisional application based on Serial No. 09/315,601 filed May 20, 1999. Therefore, claims 1-9 and 27-28 were previously cancelled in the current application.

As to the Section 102 rejection, applicants respectfully request reconsideration. The Matsui '503 patent is not properly considered prior art against the current application. The Matsui '503 patent was filed July 15, 1999. Applicant's earliest effective filing date is May 20, 1999, the filing date of related U.S. Application Serial No. 09/315,601. Thus, applicant's earliest effective filing date for the current application occurred prior to the Matsui '503 patent filing date. Further, the Matsui '503 patent has two related Japanese patent applications and neither Japanese application was published prior

to the May 20, 1999 priority date. Therefore, the Matsui '503 patent and its related Japanese applications are not prior art and cannot form the basis for rejection of the claims.

In response the Section 112, second paragraph, rejection, applicants have amended claims 19 and 26 to address the Examiner's comments. In particular, claim 19 has been amended to recite the following "wherein the grasping tool comprises a first closing element and the device further comprises a second closing element which is adapted to permanently close the left atrial appendage while the left atrial appendage is being temporarily closed with the grasping tool." Claim 26 has been amended to consistently refer to a "closure instrument." Entry of these amendments is respectfully requested.

This amendment is further being submitted to correct a minor editorial oversight in the Brief Description of the Drawings regarding Figs. 6H-6J. The subject matter illustrated by Figs. 6H-6J was fully disclosed in a section entitled, "Description of the Specific Embodiments." The description of Figs. 6H-6J appears on page 9, line 12 and continues to the end of that paragraph. In the Detailed Description, Figs. 6H-6J are disclosed as illustrating a modified closure device for introducing a balloon expander. This amendment appropriately provides a brief description of Figs. 6H-6J in accordance with

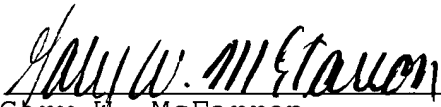
the detailed description. Therefore, no new matter is being entered by this amendment.

Accordingly, applicants respectfully request that the examiner withdraw the rejection of claims 10-26 and 29-31. Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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